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CHINA: PRISON LABOR

The Prison Labor MOU signed August 7, 1992, commits the United States and China to take specified actions, upon request of the other state, to prohibit import and export trade in products produced by prison labor. Under the MOU, U.S. embassy officers have the right to visit Chinese prison facilities to gather information about suspected violations. A U.S. Customs officer has been assigned to the embassy to implement the MOU.

Export of prison labor products from China is illegal under Chinese regulations published in October 1991. The U.S. does not have a similar law. Although there is no indication U.S. prison exports have reached China, the U.S. has exported prison labor-produced products to Japan, and several state penal systems are actively promoting exports in overseas markets.

Under the MOU, we first request the Chinese to investigate facilities in which we have reason to believe prison labor might be utilized. Depending on the results of the investigation, we might request to make a visit of the site. Customs may lift a detention order on a suspect facility only if it can determine that the facility in question does not utilize prison labor for export production.

Since signing the MOU, we have referred thirty-one cases to the Chinese for investigation. (In many cases, the goods involved are the subject of detention orders and/or findings which prohibit them from entering the United States. In other cases, our requests are based upon publications and/or leads from interested organizations.) The Chinese have provided responses to all of these cases.

In many of these cases the Chinese claim work in the enterprises in question is performed by family members of prison system employees, not by prisoners. In four cases, however, the Chinese indicate that prison labor has been used for export production in the past. However, they maintain that the factories either have ceased exporting or have removed prisoners from the production line, and that goods from these factories were not exported to the U.S.

U.S. officials have also visited three prisons in question and have asked to visit five more, including a revisit to one facility. Following visits to two facilities, the Beijing Number One Prison and the Qinghe Farm, Customs lifted related detention orders pertaining to these cases. Neither the on-site inspections of these facilities nor the perusal of related documentation revealed any evidence of exports to the United States of goods produced by prison labor.

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Implementation of the MOU had been slow until recently. The Chinese side took several months to respond to our requests for investigations and visits, and their reports of investigations have not been adequate for our purposes. For their part, the Chinese have repeatedly questioned the adequacy and timeliness of our evidence and expressed frustration at U.S. delays before finally closing the Beijing Number One Prison and Qinghe Farm cases under the MOU.

However, in recent months there has been notable progress in implementation. The Chinese have repeatedly suggested that they would be able to arrange more visits following closure of some pending cases. Following the lifting of the two detention orders, the Chinese invited U.S. Customs officials to visit the Red Star Tea Farm, the subject of another outstanding detention order. Customs expects to visit the farm during the week of January 17. The Chinese also agreed in early January to grant Customs all other pending requests for visits on a case by case basis, meaning that they will arrange a visit to an additional facility after the U.S. provides a copy of its field report on already concluded visits.

The U.S. and China have also reached tentative agreement on establishing specific guidelines for investigation of pending cases based upon a five point program proposed by Customs in September. When implemented, these guidelines will significantly improve cooperation under the MOU. The U.S. has proposed to formalize these principles in an exchange of letters with China's Ministry of Justice. The U.S. and China have also agreed to establish a working group which will meet regularly to facilitate implementation of the MOU.

The exchange of letters is likely to be completed prior to the conclusion of Treasury Secretary Bentsen's trip to China January 19-23. If so, in his press statement at the close of his visit, Secretary Bentsen would make reference to the Chinese implementing the Prison Labor MOU in accordance with the executive order on MFN. Secretary Bentsen also plans to make a formal announcement concerning the lifting of the detention order on the Qinghe Farm during his visit.

In the past two years, U.S. Customs has aggressively expanded its enforcement of U.S. laws banning the import of prison labor products. Customs has issued over twenty orders banning suspected Chinese goods from entering the U.S., obtained one court conviction of a U.S. company for importing prison made machine tools and seized suspected equipment in another case.

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